

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO**

DON KING PRODUCTIONS, INC.,
Plaintiff

v.

ANGEL LUIS RODRIGUEZ, ET AL.,
Defendants

Civil No. 05-1672 (HL)

ORDER

Before the Court are Plaintiff Don King Production, Inc.'s Motion to Dismiss co-defendant Frorian Lugo Rodriguez d/b/a Playmate & Gentlemen's counterclaim (Docket No. 13) and Motion to Dismiss co-defendants Angel Luis Rodriguez, Isabel Rivera Asecncio and the conjugal partnership between them d/b/a Restaurant La Cascada's counterclaim (Docket No. 25). Plaintiff's Motions to Dismiss are unopposed. On October 15, 2005 and November 4, 2005, the defendants Playmate & Gentlemen and Restaurant La Cascada respectively filed their Answers to the Complaint, including counterclaims. (Docket Nos. 10 and 24). The counterclaims filed by the defendants allege damages arising as a result of the Plaintiff's complaint in the instant action.

The Puerto Rico Supreme Court has held there is no cause of action for bad faith lawsuits. "If plaintiffs acted in bad faith and were obstinate in filing this action, the only remedy available [to them] in due time is an attorneys's fees award on behalf of their counsel, *Perira v. Hernandez*, 83 P.R.R. 156, 160 (1961)." *Gimenez Alvarez v. Silen Maldonado*, No.87-163, 1992 WL 754904 (P.R.). Similarly, federal courts have inherent authority to award attorneys fees when a party "litigates frivolously or in bad faith." *See Colombrito v. Kelly*, 764 F.2d 122, 133 (2nd Cir. 1985); *see also* 28 U.S.C. § 1927. This

Court lacks subject matter jurisdiction to entertain defendants' counterclaims, since there is no federal cause of action for filing a negligent complaint or a bad faith lawsuit.

WHEREFORE, the Court grants Plaintiff's Unopposed Motions to Dismiss the counterclaims (Docket Nos. 13 and 25).

IT IS SO ORDERED.

San Juan, Puerto Rico, September 26, 2006

S/ HECTOR M. LAFFITTE
Senior United States District Judge